



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0369; FRL-9933-22-Region 9]

**Revisions to the California State Implementation Plan, Monterey
Bay Unified Air Pollution Control District, Ventura County Air
Pollution Control District**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and the Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act (CAA or the Act), we are approving local rules that address volatile organic compound (VOC) emissions from the transfer of gasoline into vehicle fuel tanks, and from the transfer or dispensing of liquefied petroleum gas (LPG).

DATES: These rules are effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If

we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2015-0369, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your

comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California.

While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: James Shears, EPA Region IX, (213) 244-1810, shears.james@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State's Submittal.

A. *What rules did the State submit?*

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted/ Revised	Submitted
MBUAPCD	1002	Transfer of Gasoline into Vehicle Fuel Tanks	12/17/14	04/07/15
VCAPCD	74.33	Liquefied Petroleum Gas Transfer or Dispensing	01/13/15	04/07/15

On April 30, 2015, EPA determined that the submittals for MBUAPCD Rule 1002 and VCAPCD Rule 74.33 each met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these rules?*

We approved an earlier version of MBUAPCD Rule 1002 into the SIP on January 2, 2008 (73 FR 48). There is no previous version of VCAPCD Rule 74.33 in the SIP.

C. What is the purpose of the submitted rules?

Section 110(a) of the CAA requires States to submit regulations that control VOCs, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. VOC rules were developed as part of the local agencies' programs to control these pollutants. MBUAPCD Rule 1002 is designed to limit emissions of VOCs from the transfer of gasoline into vehicle fuel tanks. In order to simplify the source testing section of the SIP-approved rule, the Stage II vapor recovery compliance test procedures are removed from the rule language, and instead the rule requires owners and operators of gasoline dispensing facilities to adhere to the applicable California Air Resources Board (CARB) Executive Order for gasoline testing procedures. The corresponding testing cycles are included in the gasoline facility permits. VCAPCD Rule 74.33 is designed to limit fugitive VOC emissions from the transfer or dispensing of LPG. It describes related equipment and operation requirements, leak detection and repair program requirements, and recordkeeping and reporting requirements. EPA's technical support documents (TSDs) have more information about the MBUAPCD and VCAPCD rules.

II. EPA's Evaluation and Action.

A. How is EPA evaluating the rules?

These rules must be enforceable (see section 110(a) of the

Act) and must not relax existing requirements (see sections 110(1) and 193). EPA policy that we use to evaluate enforceability requirements consistently includes the Bluebook ("Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988), the Little Bluebook ("Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001), and "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules.

Our TSD for MBUAPCD describes additional rule revisions that we recommend for the next time the local agency modifies the rule. We have no recommendations for VCAPCD Rule 74.33 at this time.

D. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in

advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [Insert date 30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference.

In these rules, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR Part 51.5, the EPA is finalizing the incorporation by reference of the MBUAPCD and VCAPCD rules described in the amendments to 40 CFR Part 52 set forth below. The EPA made, and will continue to make, these documents

available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the rules are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have tribal implications and will not impose substantial direct costs on

tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with

objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Ozone,
Reporting and recordkeeping requirements, Volatile organic
compounds.

Dated: August 11, 2015.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220 is amended by adding paragraph (c)(461) to read as follows:

§52.220 Identification of plan.

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(c) * * *

(461) New and amended regulations were submitted on April 7, 2015 by the Governor's designee.

(i) Incorporation by Reference.

(A) Monterey Bay Unified Air Pollution Control District.

(1) Rule 1002, "Transfer of Gasoline into Vehicle Fuel Tanks," revised on December 17, 2014.

(B) Ventura County Air Pollution Control District.

(1) Rule 74.33, "Liquefied Petroleum Gas Transfer or Dispensing," adopted on January 13, 2015.

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